



## Overview of the Community Justice Assistance Division's Current Compliance Practices and Current Funding Formulas for Adult Probation Departments

*Interim Charge 4: Review the Community Justice Assistance Division's current compliance practices and examine current funding formulas for adult probation departments.*

### Introduction

The Texas Department of Criminal Justice's (TDCJ) Community Justice Assistance Division (CJAD) administers adult community supervision in Texas. Although the division does not work directly with offenders, it distributes state aid to local community supervision and corrections departments (CSCDs). CJAD's role is to ensure that services are provided in accordance with strategic plans and state standards.

### Background

Community supervision, better known as probation, is an alternative to incarceration with offenders serving their sentences in the community. Community supervision is a supervision system for convicted offenders with sanctions and rehabilitation program requirements.

In Texas, more than 2,900 certified community supervision officers statewide provide direct supervision to an average of 230,000 felons and 127,000 misdemeanants. Offenders sentenced to community supervision by local courts are supervised and assisted by Community Supervision and Corrections Departments (CSCDs).

CSCD Offender Population as of July 2020			
Type of Supervision	Felons	Misdemeanants	Total
Direct	144,637	54,139	198,776
Indirect	68,289	43,887	112,176
Pretrial	16,233	13,892	30,125
<b>Total</b>	<b>229,159</b>	<b>111,918</b>	<b>341,077</b>

In lieu of incarceration, county-courts-at-law and district judges have the discretion to sentence offenders to community supervision with conditions imposed by the court for a specific period of time during which criminal proceedings are deferred without an adjudication of guilt or during which a sentence of imprisonment, confinement, and/or fine is probated and the imposition of a sentence is suspended in whole or in part. Some offenders are confined temporarily in residential facilities. Others are not confined but must report to their community supervision officers at intervals determined by the courts and based on the offender's risk/needs assessment. Community supervision officers assess each offender's risk/needs using the Texas Risk Assessment System and then use the results to design an appropriate supervision plan. The plan includes the conditions stipulated by the courts when the offender is sentenced.



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The programs, services, and tools a CSCD uses to supervise and help rehabilitate offenders include but are not limited to:

- ◆ urinalysis testing
- ◆ community service restitution
- ◆ court residential treatment centers
- ◆ day reporting centers
- ◆ domestic violence programs
- ◆ education programs
- ◆ electronic monitoring
- ◆ employment programs
- ◆ intensive supervision probation
- ◆ intermediate sanction facilities
- ◆ pretrial services
- ◆ residential services
- ◆ restitution centers
- ◆ sex offender treatment
- ◆ specialized caseloads
- ◆ substance abuse treatment
- ◆ substance abuse treatment facilities
- ◆ surveillance supervision, and
- ◆ victim services

There are 123 CSCDs in Texas which are organized within judicial districts and serve 254 counties. CSCDs are organized by judicial districts and are under the direct authority of district and county-court-at-law judges, with the counties providing facilities, utilities, and equipment. Community supervision department employees work for the judicial district.

CJAD administers community supervision (adult probation) in Texas. CJAD does not work directly with offenders, rather it works with the community supervision and corrections departments (CSCDs) that supervise the offenders.

### CSCD Funding

CJAD distributes funds to community supervision and correction departments (CSCDs). Although CSCDs receive funding from CJAD, they are not part of the division. The funds from CJAD, as appropriated by the Texas Legislature, provide about 62% of a CSCD's operating budget. Additionally, CSCDs receive funds by collecting court-ordered fees from offenders, and through support of their local governments, they fund office space, equipment, and other operational necessities.

Core services and programs that are provided are determined by local CSCDs in accordance with the minimum operational standards developed by CJAD and the measured success of those programs. A CSCD submits a Strategic Plan to CJAD outlining its existing programs and services. As required by statute, the Strategic Plan is subject to approval by the jurisdiction's board of judges.



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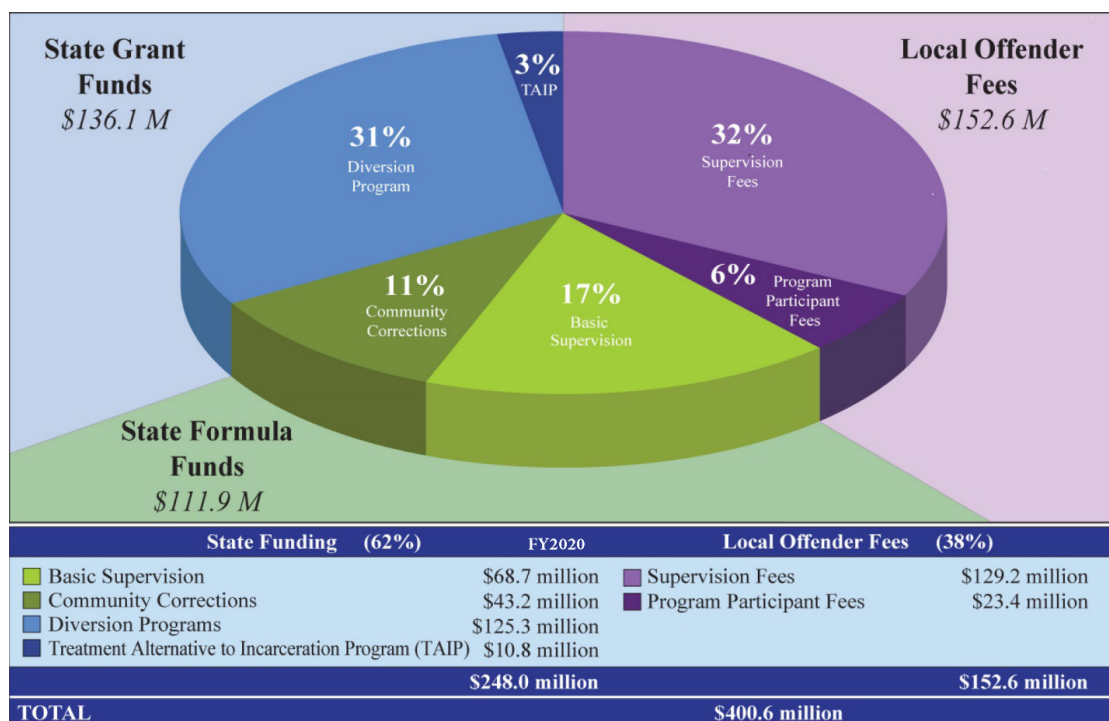
As mandated by the Texas Code of Criminal Procedure and approved by the Texas Board of Criminal Justice, TDCJ's CJAD develops minimum standards for core CSCD services. CJAD tracks performance, monitors and reviews CSCDs budgets, offers technical assistance and training, and provides both formula and competitive grant funding.

CJAD allocates funds over a two-year period according to specific formulae and categories:

- ◆ Basic Supervision funds cover the basic operating costs of the CSCD in providing services to offenders, such as employees' salaries, training, supplies, and other essentials. The amount of funding a CSCD receives is determined by the number of direct and pretrial felon and misdemeanor placements.
- ◆ Community Corrections Program funds are based on the ratio of felons placed directly on community supervision and the population of the counties in the jurisdiction.
- ◆ Diversion Program grants are awarded to select CSCDs for literacy, substance abuse and similar programs that are effective alternatives to incarcerating offenders.
- ◆ Treatment Alternatives to Incarceration Program (TAIP) grants are awarded to select CSCDs to offer substance abuse screening, assessment, referral and treatment to offenders who do not qualify for or cannot afford any other treatment.

CSCDs apply for grant funds from CJAD by submitting an application along with a strategic plan that outlines departmental goals and objectives. CJAD awards funding for diversion and treatment alternatives to incarceration programs based on how well the program will meet offender needs, demonstrated program design, adherence to grant conditions, and performance measures.

### Texas Department of Criminal Justice – Community Justice Assistance Division





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### Funding Facts and Figures

For every \$1.00 that the legislature appropriated to TDCJ for community supervision, offenders contributed \$0.95 in support of victims, counties, CSCDs and the state.

- ◆ \$190.8M in fees and restitution were collected by CSCDs from offenders in FY2019.
  - ◇ \$152.6 M was used for CSCD operations
  - ◇ \$38.2 M was for victims of crime
- ◆ \$248.0M state funding for FY2020:
  - ◇ \$68.7M for basic supervision of direct felons and misdemeanants
  - ◇ \$43.2M for community corrections programs
  - ◇ \$123.6M for grants to fund residential facilities and non-residential programs
  - ◇ \$1.75M for Battering Intervention and Prevention Programs (BIPP)
  - ◇ \$10.8M for Treatment Alternatives to Incarceration Programs (TAIP)

### Funding Formulas for CSCDs

**Basic Supervision:** Government Code Chapter 509, Section 509.011(a) (2) and Appropriations Rider 45, combined, limit misdemeanor supervision funding to \$0.70 per day for a maximum of 182 days. The number of misdemeanants placed on community supervision are obtained from Community Supervision Tracking System offense data based on the previous calendar year's end of month counts.

Annual misdemeanor Basic Supervision funding for each CSCD is calculated as follows:

$$\text{Number of Misdemeanor Placements (CY 2019)} \times \$0.70 \times 182 \text{ Days}$$

All remaining Basic Supervision funds are allocated to felony supervision based on the average number of felons under direct community supervision obtained from offense data, again based on the previous calendar year's end of month counts.

Annual felony Basic Supervision funding for each CSCD is calculated as follows:

$$\text{Average Direct Felons Supervised (CY 2019)} \times \text{Remaining Basic Supervision Funds}$$

**Community Corrections:** The allocation of Community Corrections funds is based on two factors as outlined in Government Code, Chapter 509, Section 509.011 (f): 1) the percentage of the state's population residing in the counties served by the department, and 2) the percentage of all felony defendants in the state under direct community supervision by the department.

Both factors are assigned equal weight. The Texas Board of Criminal Justice (TBCJ) has the discretion to adopt a policy limiting the percentage of departmental benefit or loss that may be realized as a result of the formula.



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The most recent data available for each variable is collected on an annual basis. For each variable, the CSCD's counts are expressed as a percentage of the total state counts. The percentages of each variable are averaged to obtain an overall allocation percentage for the CSCD. The overall allocation percentage is multiplied by the total available funds to obtain the Community Corrections funding allocation for the CSCD.

The TBCJ rule, pursuant to Government Code, Chapter 509, Section 509.011 (f), creates a fixed 5% decrease limit between fiscal years. If appropriations are inadequate to maintain all departments at the decrease limit, all allocations would be reduced proportionally relative to the previous fiscal year.

### CSCD Compliance with CJAD Standards

CJAD is charged with the oversight of CSCD funds including:

- ◆ monitoring and reviewing budgets and budget adjustments
- ◆ developing budget instructions
- ◆ defining and analyzing financial reporting requirements
- ◆ reviewing independent CPA audits, and
- ◆ developing contract monitoring and financial audit guidelines

To assist with compliance management, CJAD develops and maintains the Financial Management Manual and the Contract Management Manual that outline applicable policies for local probation departments. A CSCD's non-compliance with state reporting requirements, financial directives and funding conditions will result in applicable sanctions including and up to funding reductions.

Additionally, there are certain statutory requirements that pertain to CJAD's current compliance practices and funding formulas. The following sections outline these requirements.

In accordance with Texas Government Code, Section 509.003, CJAD determines the core services community supervision and corrections departments (CSCDs) will provide. CJAD develops minimum standards for CSCD programs, facilities and equipment and develops methods for measuring the success of the programs. CJAD tracks the performance of CSCDs, monitors and reviews their budgets, offers technical help and training, and awards special state grants.

CJAD funding allocated to any CSCD or Batterers Intervention Prevention Program (BIPP) shall require separate budgets for each program. Budgets are authorized expenditures and program operations of a CSCD or BIPP based on reasonable revenue expectations and appropriations of the Texas Legislature. CSCDs may submit budget adjustments for approval to CJAD at any time during a fiscal year. CJAD requires that the CSCDs and BIPPs submit budgets biennially.

Additionally, all revenue and expenditures reported must be related to the approved program budget. CJAD requires the fiscal officer for each CSCD or BIPP to prepare and submit a financial report every quarter for each CJAD funded program. Expenditures by CSCD or BIPP are subject to review, and any expenditure not supported by the appropriate documentation may be deemed unallowable. To supplement CJAD's review of CSCD fund utilization activity, a required independent audit process is in place to provide assurances that state funds released to CSCDs





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or BIPPs are accounted for properly. CSCDs are required to provide an independent CPA audit on all funds received. Submitted CSCD independent audits are reviewed by CJAD for compliance with the audit guidelines and compared with financial information from the CSCD or BIPP on file at CJAD and with financial information prepared by CJAD. Any findings that require resolution will go through a resolution process that includes notification of the unresolved issues and a request for clarification and action plans to resolve these issues. It is the responsibility of the CSCD or BIPP to implement any corrective action required by CJAD to strengthen accountability and internal controls to safeguard state funds. A CSCD's failure to implement the findings or comply with CJAD action plans can result in sanctions.

In addition to the compliance practices outlined above, the CJAD Field Services section audits, evaluates, and monitors CSCD programs, operations, and case management practices to ensure CSCD funded programs are operating per required grant conditions.

### CSCD Funding Compliance Practices

For Diversion Programs, Community Corrections, and Treatment Alternatives to Incarceration Program (TAIP) funding, CSCDs return all unexpended balances by November 30th following the close of the biennium.

CSCD budgets for basic operations are funded by Basic Supervision and include funds from both the state and locally generated revenue in the form of statutorily authorized reimbursement fees. For this reason, CJAD calculates the refund amount for Basic Supervision funds based on the percentage of state to total revenue. The resulting percentage is used to determine the amount of unexpended funds, if any, that is refunded to the state. The remaining balance of unexpended funds is categorized as locally generated revenue and added to the CSCD's Basic Supervision beginning fund balance for the following biennium.

In accordance with General Appropriations Act, 2020-21 Biennium, Article V, TDCJ, Rider 33, a review of Diversion Program and TAIP expenses are performed quarterly to verify if current allocation of funding represents actual program needs. Through a one-time grant funding process, deobligated funds are reallocated to CSCDs with programmatic needs that exceed awarded grant funding.

Texas Government Code, Section 509.011(g) authorizes CJAD to withhold Basic Supervision and Community Corrections funds from CSCDs that have more than six months of operating funds in their fund balance at the end of a biennium. Excess reserve reduces the Basic Supervision funding of affected CSCDs.

CJAD uses the following methodology to determine the six-month reserve in Basic Supervision funds:

***Carryover into Current Biennium - (Total Prior Year Basic Supervision Expenditures/2)***